



**BANCO POPULAR.**

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June 14, 2004

Ms. Jennifer J. Johnson  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551

**RE: 12 CFR Part 205; Docket No. OP-1196.  
Disclosure of Debit Card Fees as required by the EFTA.**

Dear Ms. Johnson:

Banco Popular of Puerto Rico (Banco Popular) is responding to the notice of study and request of information, and public comments on whether the existing disclosures required by the Electronic Fund Transfer Act<sup>1</sup> (EFTA) adequately inform consumers of fees imposed by a account holding institution when a debit card is used to make a purchase and on the needs of requiring additional disclosures in each periodic statement to reflect fees imposed for debit card use, specifically the benefits of disclosing the amount, source, and recipient of each such fee, as well as a summary of the total amount of such fees for the period, and calendar year-to-date. Banco Popular believes that the existing disclosures are both adequate and effective in making consumers aware as to the fees imposed for the use of debit cards when making a purchase.

Banco Popular is Puerto Rico's leading financial institution. We have served our customers faithfully for the past 110 years and are committed to providing the best in financial services. We are the largest local bank of the Caribbean and are present not only in Puerto Rico, but in the US Virgin Islands, and Tortola.

The goal of the EFTA is to establish the rights, liabilities and responsibilities of all participants when an electronic fund transfer takes place. The EFTA is implemented by the Board's Regulation E<sup>2</sup> as interpreted by the Official Staff Commentary<sup>3</sup> which facilitates compliance and provides protection from civil liability to those financial institutions who act in conformity to it. Generally both the EFTA and Regulation E provide for disclosures to consumers about fees related to EFTs (including POS transactions) at various points in time:

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<sup>1</sup> 15 USC 1693

<sup>2</sup> 12 CFR 205.

<sup>3</sup> 12 CFR 205 (Supp. I).

Ms. Jennifer J. Johnson

June 14, 2004

Page 2

- At the time the consumer contracts for the EFT services as provided in the initial disclosures or before the first electronic fund transfer occurs; Regulation E §205.7
- Before any change in terms that will adversely affect the customer, for example increased fees. Regulation E §205.8 (a)
- Periodic or quarterly statements must include the amount of any fees assessed against the consumer account for electronic fund transfers. Regulation E §205.9 (b)(3)
- Electronic terminal receipts shall include the amount of the fee. Regulation E §205.9 (a)(1)
- At an ATM when the operator imposes a fee on a consumer for initiating an electronic fund transfer or a balance inquiry. Regulation E §205.16 (b)

It is our belief that the existing disclosures and notifications to consumers as required by EFTA and Regulation E are more than adequate to effectively make consumers aware of all fees imposed when an EFT is made.

1. The consumer is notified of all terms and conditions to the service as required, at the time that the service is contracted. (Regulation E §205.7)
2. Also consumers periodically receive statements detailing the required information about EFT transfer-service. (Regulation E §205.9 (b))
3. Periodic statements disclose fees imposed for EFTs and instructs the consumer on how to contact the institution in case he or she has any questions about the information provided or wishes to claim an error in the information. (Regulation E §205.8 (b))
4. On an ATM machine or in a prominent or conspicuous place near the ATM machine, a notice that a fee will be imposed for providing an EFT or balance inquiry and the amount of the fee if the institution or ATM operator is not the account holder. This same notice must be displayed on screen or provided in paper before the consumer is committed to paying the fee. (Regulation E §205.16 (b))

Ms. Jennifer J. Johnson  
June 14, 2004  
Page 3

5. Also an institution is required to notify a consumer within 21 days prior to a change in terms which will be prejudicial to the consumer. (Regulation E §205.8 (a))

Considering that the consumer receives several times information pertaining to fees that can apply when EFTs occur, we understand there is no need to modify existing notification requirements. The consumers are consistently and constantly informed as to the activity of their account and any fees assessed for the use of EFT services.

Furthermore ATMs inform consumers if a fee will be imposed before the consumer is committed to the transaction. The consumer is under no obligation to proceed and gives tacit agreement to the fee if they continue with the transaction.

Modifying the existing disclosures or adding disclosures pertaining to EFT's would only increase the burden not only for the financial institution but also for the consumer who will face an even more complicated set of documents when using this service.

The modification or addition of existing disclosures implies a significant financial burden for all institutions affected. These institutions face the replacement of existing written disclosures, but also have to invest in modifying and restructuring of periodic statements, and the re-programming of its ATM machines when it comes to what should be printed on the receipts, as well as the costs of modifying the terminals and receipts printing for a POS transaction. Said burden and effort is unnecessary especially considering that the information to be added is information which is readily available to the consumer or easily accessible to the consumer.

We fail to see how the modification of existing notices or addition of new notices will be of benefit to the consumer. The existing notices and disclosures have all the required information about EFTs for the consumer. They also provide the consumer with the procedure to follow in case of questions about the information or how to claim errors or existence of unauthorized EFTs. The changes being considered can only help to make these notices and periodic statements more cumbersome and difficult to understand, and will only discourage consumers against utilizing this service if they perceive it to be much too complicated.

Ms. Jennifer J. Johnson  
June 14, 2004  
Page 4

The EFTA seeks merely to protect consumers' rights in a service which seeks to simplify consumers' understanding of electronic fund transfers.

In conclusion, we believe that the existing notices and periodic statements pertaining to EFTs are sufficient to meet consumers awareness needs as to all the terms and conditions, including imposed fees, for Electronic Fund Transfers.

Thank you for the opportunity to comment. If you have any questions regarding our comment letter please feel free to contact us.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Raquel M. Cordero Mulinelli', written in a cursive style.

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